

Calendar No. 77

105TH CONGRESS
1ST Session

S. 417

[Report No. 105-25]

A BILL

To extend energy conservation programs under the
Energy Policy and Conservation Act through
September 30, 2002.

JUNE 11, 1997

Reported with an amendment

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105TH CONGRESS
1ST SESSION**S. 417****[Report No. 105-25]**

To extend energy conservation programs under the Energy Policy and
Conservation Act through September 30, 2002.

IN THE SENATE OF THE UNITED STATES

MARCH 10, 1997

Mr. MURKOWSKI introduced the following bill; which was read twice and
referred to the Committee on Energy and Natural Resources

JUNE 11, 1997

Reported by Mr. MURKOWSKI, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To extend energy conservation programs under the Energy
Policy and Conservation Act through September 30, 2002.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 ~~SECTION 1. ENERGY POLICY AND CONSERVATION ACT~~
4 ~~AMENDMENTS.~~

5 The Energy Policy and Conservation Act is amend-
6 ed—

1 (1) in section 160 by striking subsections (d)
2 and (e);

3 (2) by amending section 166 (42 U.S.C. 6246)
4 to read as follows:

5 “AUTHORIZATION OF APPROPRIATIONS

6 “SEC. 166. There are authorized to be appropriated
7 for each of fiscal years 1998 through 2002 such sums as
8 may be necessary to implement this part.”;

9 (3) at the end of part B of title I by adding the
10 following new section:

11 “USE OF UNDERUTILIZED FACILITIES

12 “SEC. 168. Notwithstanding section 649(b) of the
13 Department of Energy Organization Act (42 U.S.C.
14 7259(b)), the Secretary is authorized to store in underuti-
15 lized Strategic Petroleum Reserve facilities, by lease or
16 otherwise, petroleum product owned by a foreign govern-
17 ment or its representative. Petroleum product stored
18 under this section is not part of the Strategic Petroleum
19 Reserve, is not subject to part C of this title, and notwith-
20 standing any provision of this Act, may be exported from
21 the United States.”;

22 (4) in section 181 (42 U.S.C. 6251) by striking
23 “1997” both places it appears and inserting in lieu
24 thereof “2002”;

1 (5) by striking “section 252(l)(1)” in section
 2 251(e)(1) (42 U.S.C. 6271(e)(1)) and inserting
 3 “section 252(k)(1)”;

4 (6) in section 252 (42 U.S.C. 6272)—

5 (A) in subsections (a)(1) and (b), by strik-
 6 ing “allocation and information provisions of
 7 the international energy program” and insert-
 8 ing “international emergency response provi-
 9 sions”;

10 (B) in subsection (d)(3), by striking
 11 “known” and inserting after “circumstances”
 12 “known at the time of approval”;

13 (C) in subsection (e)(2) by striking “shall”
 14 and inserting “may”;

15 (D) in subsection (f)(2) by inserting “vol-
 16 untary agreement or” after “approved”;

17 (E) by amending subsection (h) to read as
 18 follows—

19 “(h) Section 708 of the Defense Production Act of
 20 1950 shall not apply to any agreement or action under-
 21 taken for the purpose of developing or carrying out—

22 “(1) the international energy program; or

23 “(2) any allocation, price control, or similar
 24 program with respect to petroleum products under
 25 this Act.”;

(F) in subsection (i) by inserting “annually, or” after “least” and by inserting “during an international energy supply emergency” after “months”;

(G) in subsection (k) by amending paragraph (2) to read as follows:

“(2) The term ‘international emergency response provisions’ means—

“(A) the provisions of the international energy program which relate to international allocation of petroleum products and to the information system provided in the program; and

“(B) the emergency response measures adopted by the Governing Board of the International Energy Agency (including the July 11, 1984, decision by the Governing Board on ‘Stocks and Supply Disruptions’) for—

“(i) the coordinated drawdown of stocks of petroleum products held or controlled by governments; and

“(ii) complementary actions taken by governments during an existing or impending international oil supply disruption.”; and

1 (H) by amending subsection (I) to read as
2 follows:

3 “(1) The antitrust defense under subsection (f) shall
4 not extend to the international allocation of petroleum
5 products unless allocation is required by chapters III and
6 IV of the international energy program during an inter-
7 national energy supply emergency.”;

8 (7) by amending the last sentence of section
9 256(h) (42 U.S.C. 6276(h)) to read as follows:
10 “There are authorized to be appropriated for each of
11 fiscal years 1998 through 2002 such sums as may
12 be necessary to carry out this part.”;

13 (8) in section 281 (42 U.S.C. 6285) by striking
14 “1997” both places it appears and inserting in lieu
15 thereof “2002”;

16 (9) in section 365(f)(1) (42 U.S.C. 6325(f)(1))
17 by striking “not to exceed” and all that follows
18 through “fiscal year 1993” and inserting in lieu
19 thereof “for each of fiscal years 1998 through 2002
20 such sums as may be necessary.”; and

21 (10) by amending section 397 (42 U.S.C.
22 6371f) to read as follows:

23 “AUTHORIZATION OF APPROPRIATIONS

24 “SEC. 397. For the purpose of carrying out this part,
25 there are authorized to be appropriated for each of fiscal

1 years 1998 through 2002 such sums as may be nec-
 2 essary.”; and

3 ~~(11) in section 400BB(b) (42 U.S.C. 6374a(b))~~
 4 by amending paragraph (1) to read as follows:

5 “(1) There are authorized to be appropriated to
 6 the Secretary for carrying out this section such sums
 7 as may be necessary for each of fiscal years 1998
 8 through 2002, to remain available until expended.”.

9 **SEC. 2. ENERGY CONSERVATION AND PRODUCTION ACT**
 10 **AMENDMENT.**

11 Section 422 of the Energy Conservation and Produc-
 12 tion Act (42 U.S.C. 6872) is amended to read as follows:

13 ~~“AUTHORIZATION OF APPROPRIATIONS~~

14 ~~“SEC. 422. For the purpose of carrying out the~~
 15 ~~weatherization program under this part, there are author-~~
 16 ~~ized to be appropriated for each of fiscal years 1998~~
 17 ~~through 2002 such sums as may be necessary.”.~~

18 **SECTION 1. ENERGY POLICY AND CONSERVATION ACT**
 19 **AMENDMENTS.**

20 *The Energy Policy and Conservation Act is amend-*
 21 *ed—*

22 *(1) at the end of section 154 by adding the fol-*
 23 *lowing new subsection:*

24 *“(f) No later than October 1, 1997, the Secretary shall*
 25 *prepare a statement of policy on Strategic Petroleum Re-*
 26 *serve development, maintenance and drawdown. The state-*

1 *ment of policy shall evaluate the effect of sales of petroleum*
 2 *from the Strategic Petroleum Reserve under authorities*
 3 *other than those provided by this Act on the ability of the*
 4 *United States to fulfill its obligations under the inter-*
 5 *national energy program. The statement of policy shall*
 6 *evaluate the effectiveness of the Strategic petroleum Reserve*
 7 *at reducing the impact of severe energy supply interrup-*
 8 *tions, in light of existing quantities of petroleum in the*
 9 *Strategic Petroleum Reserve, and the likelihood of purchases*
 10 *of additional petroleum for storage. The statement of policy*
 11 *shall set forth alternative strategies for drawdown and the*
 12 *criteria to be employed at the time of drawdown to select*
 13 *among such strategies. The statement of policy shall be pub-*
 14 *lished in the Federal Register and be subject to public com-*
 15 *ment, and may be prepared without regard to the require-*
 16 *ments of section 553 of title 5, United States Code, section*
 17 *501 of the Department of Energy Organization Act (42*
 18 *U.S.C. 7191), and section 523 of this Act.”;*

19 *(2) by amending section 166 (42 U.S.C. 6246) to*
 20 *read as follows:*

21 *“AUTHORIZATION OF APPROPRIATIONS*

22 *“SEC. 166. There are authorized to be appropriated*
 23 *for each of fiscal years 1998 through 2000 such sums as*
 24 *may be necessary to implement this part.”;*

25 *(3) at the end of part B of title I by adding the*
 26 *following new section:*

1 “USE OF UNDERUTILIZED FACILITIES

2 “SEC. 168. (a) Notwithstanding section 649(b) of the
3 *Department of Energy Organization Act* (42 U.S.C.
4 7259(b)), the Secretary is authorized to store in underuti-
5 lized Strategic Petroleum Reserve facilities, by lease or oth-
6 erwise, petroleum product owned by a foreign government
7 or its representatives. Petroleum product stored under this
8 section is not part of the Strategic Petroleum Reserve, is
9 not subject to part C of this title, and notwithstanding any
10 provision of this Act, may be exported from the United
11 States.

12 “(b) Beginning on October 1, 2002, funds resulting
13 from the leasing or other use of a Reserve facility under
14 subsection (a) shall be available to the Secretary, without
15 further appropriation, for the purchase of petroleum prod-
16 ucts for the Reserve.”;

17 (4) in section 181 (42 U.S.C. 6251) by striking
18 “1997” other places it appears and inserting in lieu
19 thereof “2000”;

20 (5) by striking “section 252(l)(1)” in section
21 251(e)(1) (42 U.S.C. 6271(e)(1)) and inserting “sec-
22 tion 252(k)(1)”;

23 (6) in section 252 (42 U.S.C. 6272)—

24 (A) in subsections (a)(1) and (b), by strik-
25 ing “allocation and information provisions of

1 *the international energy program” and inserting*
 2 *“international emergency response provisions”;*

3 *(B) in subsection (d)(3), by striking*
 4 *“known” and inserting after “circumstances”*
 5 *“known at the time of approval”;*

6 *(C) in subsection (e)(2) by striking “shall”*
 7 *and inserting “may”;*

8 *(D) in subsection (f)(2) by inserting “vol-*
 9 *untary agreement or” after “approved”;*

10 *(E) by amending subsection (h) to read as*
 11 *follows:*

12 *“(h) Section 708 of the Defense Production Act of 1950*
 13 *shall not apply to any agreement or action undertaken for*
 14 *the purpose of developing or carrying out—*

15 *“(1) the international energy program, or*

16 *“(2) any allocation, price control, or similar*
 17 *program with respect to petroleum products under*
 18 *this Act.”;*

19 *(F) in subsection (k) by amending para-*
 20 *graph (2) to read as follows:*

21 *“(2) The term ‘international emergency response*
 22 *provisions’ means—*

23 *“(A) the provisions of the international en-*
 24 *ergy program which relate to international allo-*

1 *cation of petroleum products and to the informa-*
 2 *tion system provided in the program, and*

3 “(B) *the emergency response measures*
 4 *adopted by the Governing Board of the Inter-*
 5 *national Energy Agency (including the July 11,*
 6 *1984, decision by the Governing Board on*
 7 *‘Stocks and Supply Disruptions’) for—*

8 “(i) *the coordinated drawdown of*
 9 *stocks of petroleum products held or con-*
 10 *trolled by governments; and*

11 “(ii) *complementary actions taken by*
 12 *governments during an existing or impend-*
 13 *ing international oil supply disruption”;*
 14 *and*

15 (G) *by amending subsection (l) to read as*
 16 *follows:*

17 “(l) *The antitrust defense under subsection (f) shall not*
 18 *extend to the international allocation of petroleum products*
 19 *unless allocation is required by chapters III and IV of the*
 20 *international energy program during an international en-*
 21 *ergy supply emergency.”;*

22 (7) *by amending the last sentence of section*
 23 *256(h) (42 U.S.C. 6276(h)) to read as follows: “There*
 24 *are authorized to be appropriated for each of fiscal*

1 *years 1998 through 2002 such sums as may be nec-*
 2 *essary to carry out this part.”;*

3 *(8) in section 281 (42 U.S.C. 6285) by striking*
 4 *“1997” both places it appears and inserting in lieu*
 5 *thereof “2002”;*

6 *(9) in section 365(f)(1) (42 U.S.C. 6325(f)(1)) by*
 7 *striking “not to exceed” and all that follows through*
 8 *“fiscal year 1993” and inserting in lieu thereof “for*
 9 *each of fiscal years 1998 through 2002 such sums as*
 10 *may be necessary”;*

11 *(10) by amending section 397 (42 U.S.C. 6371f)*
 12 *to read as follows:*

13 *“AUTHORIZATION OF APPROPRIATIONS*

14 *“SEC. 397. For the purpose of carrying out this part,*
 15 *there are authorized to be appropriated for each of fiscal*
 16 *years 1998 through 2002 such sums as may be necessary.”;*
 17 *and*

18 *(11) in section 400BB(b) (42 U.S.C. 6374a(b))*
 19 *by amending paragraph (1) to read as follows:*

20 *“(1) There are authorized to be appropriated to*
 21 *the Secretary for carrying out this section such sums*
 22 *as may be necessary for each of fiscal years 1998*
 23 *through 2002, to remain available until expended.”.*

1 **SEC. 2. PURCHASES FROM STRATEGIC PETROLEUM RE-**
 2 **SERVE BY ENTITIES IN INSULAR AREAS OF**
 3 **UNITED STATES AND FREELY ASSOCIATED**
 4 **STATES.**

5 (a) *Section 161 of the Energy Policy and Conservation*
 6 *Act (42 U.S.C. 6241) is amended by adding at the end the*
 7 *following:*

8 “(j) *PURCHASES FROM STRATEGIC PETROLEUM RE-*
 9 *SERVE BY ENTITIES IN INSULAR AREAS OF UNITED STATES*
 10 *AND FREELY ASSOCIATED STATES.—*

11 “(1) *DEFINITIONS.—In this subsection:*

12 “(A) *BINDING OFFER.—The term ‘binding*
 13 *offer’ means a bid submitted by the State of Ha-*
 14 *waii for an assured award of a specific quantity*
 15 *of petroleum product, with a price to be cal-*
 16 *culated pursuant to paragraph (2) of this sub-*
 17 *section, that obligates the offeror to take title to*
 18 *the petroleum product without further negotia-*
 19 *tion or recourse to withdraw the offer.*

20 “(B) *CATEGORY OF PETROLEUM PROD-*
 21 *UCT.—The term ‘category of petroleum product’*
 22 *means a master line item within a notice of sale.*

23 “(C) *ELIGIBLE ENTITY.—The term ‘eligible*
 24 *entity’ means an entity that owns or controls a*
 25 *refinery that is located within the State of Ha-*
 26 *waii.*

1 “(D) *FULL TANKER LOAD*.—The term ‘full
2 *tanker load*’ means a tanker of approximately
3 700,000 barrels of capacity, or such lesser tanker
4 capacity as may be designated by the State of
5 Hawaii.

6 “(E) *INSULAR AREA*.—The term ‘insular
7 area’ means the Commonwealth of Puerto Rico,
8 the Commonwealth of the Northern Mariana Is-
9 lands, the United States Virgin Islands, Guam,
10 American Samoa, and the Freely Associated
11 States of the Republic of the Marshall Islands,
12 the Federated States of Micronesia, and the Re-
13 public of Palau.

14 “(F) *OFFERING*.—The term ‘offering’ means
15 a solicitation for bids for a quantity or quan-
16 tities of petroleum product from the Strategic
17 Petroleum Reserve as specified in the notice of
18 sale.

19 “(G) *NOTICE OF SALE*.—The term ‘notice of
20 sale’ means the document that announces—

21 “(i) the sale of Strategic Petroleum Re-
22 serve products;

23 “(ii) the quantity, characteristics, and
24 location of the petroleum product being sold;

1 “(iii) the delivery period for the sale;

2 and

3 “(iv) the procedures for submitting of-

4 fers.

5 “(2) IN GENERAL.—In the case of an offering of
6 a quantity of petroleum product during a drawdown
7 of the Strategic Petroleum Reserve—

8 “(A) the State of Hawaii, in addition to
9 having the opportunity to submit a competitive
10 bid, may—

11 “(i) submit a binding offer, and shall
12 on submission of the offer, be entitled to
13 purchase a category of a petroleum product
14 specified in a notice of sale at a price equal
15 to the volumetrically weighted average of the
16 successful bids made for the remaining
17 quantity of the petroleum product within
18 the category that is the subject of the offer-
19 ing; and

20 “(ii) submit 1 or more alternative of-
21 fers, for other categories of the petroleum
22 product, that will be binding if no price
23 competitive contract is awarded for the cat-
24 egory of petroleum product on which a

1 *binding offer is submitted under clause (i);*
2 *and*

3 “(B) *at the request of the Governor of the*
4 *State of Hawaii, a petroleum product purchased*
5 *by the State of Hawaii at a competitive sale or*
6 *through a binding offer shall have first pref-*
7 *erence in scheduling for lifting.*

8 “(3) *LIMITATION ON QUANTITY.—*

9 “(A) *IN GENERAL.—In administering this*
10 *subsection, in the case of each offering, the Sec-*
11 *retary may impose the limitation described in*
12 *subparagraph (B) or (C) that result in the pur-*
13 *chase of the lesser quantity of petroleum product.*

14 “(B) *PORTION OF QUANTITY OF PREVIOUS*
15 *IMPORTS.—The Secretary may limit the quan-*
16 *tity of a petroleum product that the State of Ha-*
17 *waii may purchase through a binding offer at*
18 *any offering to $\frac{1}{12}$ of the total quantity of im-*
19 *ports of the petroleum product brought into the*
20 *State during the previous year (or other period*
21 *determined by the Secretary to be representa-*
22 *tive).*

23 “(C) *PERCENTAGE OF OFFERING.—The Sec-*
24 *retary may limit the quantity that may be pur-*

1 *chased through binding offers at any offering to*
 2 *3 percent of the offering.*

3 *“(4) ADJUSTMENTS.—*

4 *“(A) IN GENERAL.—Notwithstanding any*
 5 *limitation imposed under paragraph (3), in ad-*
 6 *ministering this subsection, in the case of each*
 7 *offering, the Secretary shall, at the request of the*
 8 *Governor of the State of Hawaii, or an eligible*
 9 *entity certified under paragraph (7), adjust the*
 10 *quantity to be sold to the State of Hawaii in ac-*
 11 *cordance with this paragraph.*

12 *“(B) UPWARD ADJUSTMENT.—The Sec-*
 13 *retary shall adjust upward to the next whole*
 14 *number increment of a full tanker load if the*
 15 *quantity to be sold is—*

16 *“(i) less than 1 full tanker load; or*

17 *“(ii) greater than or equal to 50 per-*
 18 *cent of a full tanker load more than a whole*
 19 *number increment of a full tanker load.*

20 *“(C) DOWNWARD ADJUSTMENT.—The Sec-*
 21 *retary shall adjust downward to the next whole*
 22 *number increment of a full tanker load if the*
 23 *quantity to be sold is less than 50 percent of a*
 24 *full tanker load more than a whole number in-*
 25 *crement of a full tanker load.*

1 “(5) *DELIVERY TO OTHER LOCATIONS.*—*The*
 2 *State of Hawaii may enter into an exchange or a*
 3 *processing agreement that requires delivery to other*
 4 *locations, if a petroleum product of similar value or*
 5 *quantity is delivered to the State of Hawaii.*

6 “(6) *STANDARD SALES PROVISIONS.*—*Except as*
 7 *otherwise provided in this Act, the Secretary may re-*
 8 *quire the State of Hawaii to comply with the stand-*
 9 *ard sales provisions applicable to purchasers of petro-*
 10 *leum product at competitive sales.*

11 “(7) *ELIGIBLE ENTITIES.*—

12 “(A) *IN GENERAL.*—*Subject to subpara-*
 13 *graphs (B) and (C) and notwithstanding any*
 14 *other provision of this paragraph, if the Gov-*
 15 *ernor of the State of Hawaii certifies to the Sec-*
 16 *retary that the State has entered into an agree-*
 17 *ment with an eligible entity to carry out this*
 18 *Act, the eligible entity may act on behalf of the*
 19 *State of Hawaii to carry out this subsection.*

20 “(B) *LIMITATION.*—*The Governor of the*
 21 *State of Hawaii shall not certify more than 1 el-*
 22 *igible entity under this paragraph for each no-*
 23 *tice of sale.*

24 “(C) *BARRED COMPANY.*—*If the Secretary*
 25 *has notified the Governor of the State of Hawaii*

1 *that a company has been barred from bidding*
 2 *(either prior to, or at the time that a notice of*
 3 *sale is issued), the Governor shall not certify the*
 4 *company under this paragraph.*

5 “(8) *SUPPLIES OF PETROLEUM PRODUCTS.—At*
 6 *the request of the governor of an insular area, or*
 7 *President of a Freely Associated State, the Secretary*
 8 *shall, for a period not to exceed 180 days following*
 9 *a drawdown of the Strategic Petroleum Reserve, assist*
 10 *the insular area in its efforts to maintain adequate*
 11 *supplies of petroleum products from traditional and*
 12 *non-traditional suppliers.”.*

13 *(b) REGULATIONS.—*

14 “(1) *IN GENERAL.—The Secretary of Energy*
 15 *shall issue such regulations as are necessary to carry*
 16 *out the amendment made by subsection (a).*

17 “(2) *ADMINISTRATIVE PROCEDURE.—Regulations*
 18 *issued to carry out the amendment made by sub-*
 19 *section (a) shall not be subject to—*

20 *(A) section 523 of the Energy Policy and*
 21 *Conservation Act (42 U.S.C. 6393); or*

22 *(B) section 501 of the Department of En-*
 23 *ergy Organization Act (42 U.S.C. 7191).*

24 “(c) *EFFECTIVE DATE.—The amendment made by sub-*
 25 *section (a) takes effect on the earlier of—*

1 (1) *the date that is 180 days after the date of en-*
 2 *actment of this Act; or*

3 (2) *the date that final regulations are issued*
 4 *under subsection (b).*

5 **SEC. 3. ENERGY POLICY ACT OF 1992 AMENDMENT.**

6 *Section 2603 of the Energy Policy Act of 1992 (25*
 7 *U.S.C. 3503) is amended in subsection (c) by striking “and*
 8 *1997” each place it appears and inserting “1997, 1998,*
 9 *1999, and 2000” in lieu thereof.*

10 **SEC. 4. ENERGY CONSERVATION AND PRODUCTION ACT**
 11 **AMENDMENT.**

12 *Section 422 of the Energy Conservation and Produc-*
 13 *tion Act (42 U.S.C. 6872) is amended to read as follows:*

14 “AUTHORIZATION OF APPROPRIATIONS

15 “SEC. 422. *For the purpose of carrying out the weath-*
 16 *erization program under this part, there are authorized to*
 17 *be appointed for each of fiscal years 1998 through 2002 such*
 18 *sums as may be necessary.*

○